IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE THIRTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 16045 of 2004

Between:

M/s Sharma Packers 2-3-762, Amberpet, Hyderabad
rep. by Proprietor, Mr.Paul Sharma.

..... PETITIONER

AND

1 The Commercial Tax Officer Vidyanagar Circle, Hyderabad.
2 The Additional Commissioner (CT) Legal (FAC) Nampally, Andhra Pradesh, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of Certiorari or any other appropriate writ or order or direction quashing the order of the 3rd Respondent in CCT's Ref.No.LIII(1)/1202/2004 Dt.12.8.2004 as unreasonable illegal and arbitrary and restrain the 1st Respondent from taking any coercive steps against the Petitioner for collecting the disputed Tax of Rs.1,73,948/- pending disposal of the appeal before the Sales Tax Appellate Tribunal.

Counsel for the Petitioner : MR.S.DWARAKANATH, Advocate.

Counsel for the Respondents : GP FOR COMMERCIAL TAXES

The Court at the admission stage made the following O R D E R:

(Per the Hon'ble Sri Justice Bilal Nazki)

Heard learned counsel for the parties. With their consent, the writ petition is being disposed of at this stage.

Petitioner has filed an appeal before the Sales Tax Appellate Tribunal, which is pending. Pending appeal, he filed an application seeking stay before the Additional Commissioner (CT) Legal, Hyderabad. Stay has not been granted and the application has been rejected. The petitioner submits that the disputed amount is only an amount of Rs.1,73,948/-. The authorities below relied on an earlier judgment of the Tribunal, which has already been set aside by this Court in ***Lakshmi Traders, Vijayawada and others Vs. State of A.P. and others.***

In this view of the matter, we feel that the petitioner should have been granted stay. As such, the order impugned is set aside. There shall be stay of any recovery proceedings till disposal of the appeal.

The writ petition is accordingly allowed. No order as to costs.

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(BILAL NAZKI, J)

13th September, 2004.

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(S.ANANDA REDDY, J)

vrn

To

1 The Commercial Tax Officer Vidyanagar Circle, Hyderabad.

2 The Additional Commissioner (CT) Legal (FAC) Nampally,

Andhra Pradesh, Hyderabad.

3 Two C.Cs. to the Government Pleader for Commercial Taxes,

High Court buildings, Hyderabad (O.U.T.)

4 Two C.D copies.